

The Virginia State Banker

Regulatory news for Virginia State-chartered Banks

E.J. Face, Jr., Commissioner

Bureau of Financial Institutions - State Corporation Commission

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Commissioner Face

MOVEMENT TOWARDS A MORE BALANCED PLAYING FIELD?

The Virginia State Banker is published by the Virginia Bureau of Financial Institutions to provide useful information to the banks and savings institutions that it regulates, and any of their related interests. Reader comments and suggestions are welcome and should be addressed to Ginger Sandler, Bureau of Financial Institutions, P.O. Box 640, Richmond, Virginia 23218-0640, or via e-mail ginger.sandler@scc.virginia.gov.

ACKNOWLEDGMENTS

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Earlier this month the Board of Directors of the Federal Deposit Insurance Corporation (FDIC) voted in a 3-2 decision to issue a Notice of Proposed Rulemaking to grant limited exemptions for State-chartered banks from State laws. While this vote was not widely publicized, it was no less anxiously awaited by those of us who have interest in such things. As the history of State-chartered banking and the dual-banking system continues to be written, this decision could very well become known as a "red letter" decision which helped preserve the viability of the dual-banking system in the United States.

As many of you know, particularly those of you who operate across State lines, Federal pre-emption of State laws

has allowed national banks and Federal thrifts certain competitive advantages in an interstate operating environment. Over time, State banks and State bank regulators together have initiated various strategies to level the playing field between Federal and State financial institutions. Nevertheless, the playing field continues to slope in favor of Federal institutions.

I am pleased that the FDIC will move forward with this proposal, if for no other reason than to draw more attention to Federal regulatory pre-emption efforts. I look forward to the continued public debate, and I urge you as State bankers to monitor and follow this issue. I believe it will have an extremely important impact on the future of the State bank charter.

FDIC MAY COVER STORED VALUE CARDS

The FDIC issued a proposal that would allow deposit insurance coverage of funds stored in value cards and other nontraditional access devices, such as computers, if they have been placed at an insured depository institution. The new proposal would not recognize any exceptions to this classification for such funds as “deposits,” but the FDIC is seeking comments on this issue. The agency noted that in many cases the underlying stored value cards are placed at an insured depository institution by one party for transfer or withdrawal by other parties, such as a company issuing

“payroll cards” for employees. Under the proposal, the first party would be treated as the insured depositor unless (1) the records of the insured depository institution indicate that the first party is not the owner of the funds; and (2) records maintained by the bank or the first party reflect the identities of the cardholders and the amount payable to each cardholder. The proposal has a 90-day comment period which ends November 7, 2005. Read more at www.fdic.gov/news/news/press/2005/pr6505.html.

NEW PROSECUTION RULES

The Justice Department on July 13, 2005 published new procedures for the U.S. Attorneys’ offices for money laundering cases to promote consistency and uniformity in prosecution of money laundering laws. Under the update to the U.S. Attorneys’ manual, the offices must get the approval of the Asset Forfeiture and Money Laundering

Section Criminal Division before any indictment, complaint, information, or deferred prosecution agreement is filed involving a financial institution as a defendant or unindicted co-conspirator. The restriction will not apply to non-bank financial institutions such as a check-cashing service unless they are

part of a larger business or a branch of an international institution. The new procedures also call for approval in cases involving extra-territorial jurisdictions and attorneys. See www.usdoj.gov/usao/eousa/foia_reading_room/usam/title9/105mcrm.htm for more information.

BOOT CAMP FOR BSA PROFESSIONALS

As the name implies, this is an intensive five-day experience that will fast forward your Bank Secrecy Act (BSA) compliance knowledge and value to your regulatory agency, financial institution, or money service business. Each session includes focused “hands-on exercises” that reinforce what you learn and permit you to apply your knowledge to real-life situations. This is NOT a series of panels and talking heads. Instead, a highly experienced team of BSA experts with senior level government and private experience will lead each session, giving you the latest information and coaching on real-life exercises and case studies. Come to work and to learn, and return to your agency or institution ready to achieve a new level of effectiveness.

This program is also the first step in qualifying for Certification as a Professional BSA Compliance Practitioner.

At the conclusion of this training, you will have the following skills:



- Evaluate the strengths and weaknesses of BSA/AML Compliance Programs
 - Enhance the quality of BSA/AML Compliance Programs
 - Think like a BSA/AML Compliance Officer
- Who should attend:
- State and Federal BSA examiners ready to become subject matter experts
 - BSA/AML Compliance Officers and Managers seeking a refresher
 - Individuals being groomed to become BSA/AML Compliance Officers and Managers
 - BSA/AML Auditors (internal or external)
 - Those responsible for implementing and maintaining an effective BSA/AML Compliance Program
 - Newly appointed BSA/AML Compliance Officers

To learn more about the Boot Camp for BSA Professionals, contact CSBS at 800-886-2727, or contact Roger Stromberg at rstromberg@csbs.org.

FALL CEOs' MEETING

Commissioner Face will host a meeting with Chief Executive Officers (CEOs) from banks throughout Virginia. This meeting will provide an opportunity for Commissioner Face and other Bureau personnel to meet with CEOs to discuss issues of mutual

interest, including our Bureau's goals, objectives, and examination issues. The keynote speaker will be FDIC Director Thomas Curry.

The meeting will be held on Wednesday, November 16, 2005, at the Omni Hotel in Charlottesville

from 8 a.m. to 5 p.m. Invitation letters were mailed in late September.

If there is a topic you would like discussed, please contact Deputy Commissioner John Crockett or his assistant, Betty Nolan, at (804) 371-9704.

VIRGINIA BANK DIRECTORS' COLLEGE

Forty-five directors from Virginia's community banks attended the Virginia Bank Directors' College, *Emerging Issues* session, at The Jefferson Hotel in Richmond on April 6 and 7, 2005. Representatives from the Bureau and the Federal Reserve Bank of Richmond discussed the BSA, Sarbanes-Oxley Act, Bank Holding Company Ratings, and Consumer Affairs. Additional presenters included David Baris of the American Association of Bank Directors, and Lana and Richard Furr of Furr Resources, Inc.

The Virginia Bank Directors' College provides bank directors an opportunity to become more effective, capable, and knowledgeable members of a bank's board of directors. Developed in conjunction with State and Federal regulators, the Virginia Bank Directors' College is presented each year in two sessions — the *Essential Principles* session and the *Emerging Issues* session.

The *Essential Principles* session will be held on November 9 and 10, 2005 at The Boar's Head Inn in Charlottesville. This program provides newer bank directors an opportunity to gain a better understanding of bank operations and

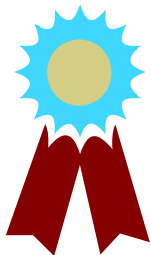
bank directors' responsibilities. This information may also provide a significant learning experience for the more experienced director who has not previously attended. The program brochure was mailed to each bank in early September.

The next *Emerging Issues* session will be conducted April 19 and 20, 2006 at The Inn at Virginia Tech and Skelton Conference Center in Blacksburg. This program will highlight information applicable to all bank directors and will provide an opportunity for bank directors to remain informed about industry- and bank-specific issues.

Administrative management of the College is provided by the Virginia Association of Community Banks (VACB), including registration and meeting activities. Membership in VACB is not required to attend the College. Space is limited, so please register early.

If you would like additional information about the Directors' College or to reserve your spot in the upcoming November program, please call Betty Nolan at the Bureau, (804) 371-9704.

BUREAU EMPLOYEES TO RECEIVE SERVICE PINS



In early November, the State Corporation Commission (SCC) will award service pins to the following employees of the Bureau of Financial Institutions. Employees will be recognized for their hard work, reliability, and dedication to the SCC.

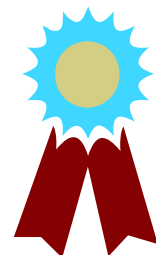
30 years: Nicholas C. Kyrus

25 years: Robert W. Hughes and Franklin W. Woods

20 years: Wanda L. Belfield

15 years: Karen S. Heede and Regina D. Thomas

5 years: John S. Smigal



Congratulations to all!

PERSONNEL CHANGES IN THE BANK AND THRIFT SUPERVISION SECTION

The Bureau's Bank and Thrift Supervision Section recently modified its management structure. Charles Dickerson is now Assistant Deputy Commissioner. Three Managers of Examinations (Manager) will report to him: John Turner for the Roanoke Office, and Martin Holbrook and Robert Hughes for the Richmond Office. The Assistant Deputy Commissioner and the Managers will be in charge of the day-to-day responsibilities of field examiner supervision, and the examination and monitoring of our



Virginia-chartered banks, holding companies, trust companies, and thrifts. They are compiling plans and procedures to enhance our efficiency and effectiveness.

In addition, we welcome Jean Bowden who comes to us from the SCC's Bureau of Insurance. Jean is the primary editor of the examination reports. She also answers incoming calls to examiners, makes travel arrangements, and assists in the examination schedule process.

INTEREST IN NEW BANKS SURGING IN VIRGINIA

The SCC granted certificates of authority to commence banking business to organizations located in Newport News, Fairfax County, and Roanoke. Capital of the newly approved banks will range from \$14.0 million to \$25.0 million. In addition, new banks are being organized in Fairfax County, Albemarle County, and Richmond.

On August 18, 2005, the SCC approved the application of Virginia Company Bank to commence business at 601 Thimble Shoals Boulevard, Newport News, Virginia with \$14.2 million in capital. The President and CEO is Jon A. Nystrom; the Chief Financial Officer (CFO) is Geoffrey C. Warner; and the Chairman of the Board of Directors is Conway H. Sheild, III. The Bank plans to begin operations in early November.

On September 14, 2005, the SCC approved the application of Virginia Heritage Bank to commence business at 11166 Fairfax Boulevard, Suite 100, Fairfax, Virginia with \$15.0 million in capital. The Chairman and CEO will

be Douglas M. Church, Jr., and the CFO will be Charles C. Brockett.

On September 30, 2005, the SCC approved the application of HomeTown Bank to commence business at 202 South Jefferson Street, Roanoke, Virginia. HomeTown Bank will be capitalized with \$25.0 million. The President and CEO will be William Clark, the CFO will be Joseph Borelli, and the Chairman of the Board of Directors will be Warner Dalhouse. HomeTown Bank plans to open in mid-November, pending Federal regulatory approval.

Since September, the Bureau of Financial Institutions received two applications for new banks. The Washington Bank filed an application for a certificate of authority to commence business at 5860 Columbia Pike, Suites 104 and 105, Bailey's Crossroads, Fairfax County, Virginia with \$15.75 million in capital. The proposed president and CEO is Carl E. Dodson.

In addition, the Bureau received an application from Old Dominion State Bank for a certificate of authority to commence business at 4916 Plank Road, Suite 216, North Garden, Albemarle County, Virginia. It proposes to begin business with \$7.4 million in capital. It is headed by Charles Darnell.

The Bureau is anticipating an application from Virginia Business Bank for a certificate of authority to commence business at 9020 Stony Point Parkway, Suite 225, Richmond, Virginia. The President and CEO will be Merlin Henkel, the CFO will be Barbara Kallus, and the Chairman of the Board of Directors will be Franklin Miller. The bank proposes to begin business with about \$16.0 million in capital.

As of the end of October, there were 86 Virginia State-chartered banks under the supervision of the Bureau, compared with 108 at the end of 2000.

BARIEK SENTENCED FOR OPERATING A MONEY SERVICE BUSINESS WITHOUT A VIRGINIA LICENSE

Rahim A. Bariek, age 46, of Herndon, Virginia, was sentenced on September 16, 2005 before the Honorable James C. Cacheris, United States District Judge, for operating a money transfer business (commonly known as “hawala”) without a Virginia license in violation of provisions of the USA PATRIOT Act.

Bariek, who previously pled guilty to a single count indictment of operating Bariek Money Transfer from on or about November 1, 2001 through on or about August 8, 2003, was sentenced to 18 months incarceration and required to forfeit \$32,343.29. Special agents from U.S. Immigration and Customs Enforcement (ICE) and the Internal Revenue Service (IRS) arrested Bariek on April 15, 2005. Bariek and his business received at least \$4.9 million in funds from individuals wishing to transfer money out of the United States from November 1, 2001 until August 8, 2003. In furtherance of Bariek’s money transmitting business, those funds were deposited in five bank accounts controlled by Bariek. Equivalent amounts of money were transferred to individuals in various Middle East countries — including Afghanistan, Pakistan, and Iran — without a money transmission license from the Virginia SCC as required by Virginia law.

On November 14, 2001, Bariek testified before the U.S. Senate Committee on Banking, Housing, and Urban Affairs, Subcommittee on International Trade and Finance, concerning hawalas and underground terrorist financing mechanisms. Among other things, Bariek told lawmakers, “I pay taxes on my hawala business and I comply with the law. I am happy to comply with the new Federal law, which you wrote, and to register and to file suspicious activity reports.” He also stated that he knew his customers, but the government presented evidence at sentencing showing that Bariek could not possibly have known all of his customers and that he transmitted money to Afghanistan immediately after the

September 11 terrorist attacks when Afghanistan was still under the control of the Taliban and a base for Al-Qaeda operations.

Paul J. McNulty, United States Attorney for the Eastern District of Virginia, who prosecuted Bariek stated: “The first priority of law enforcement is to prevent terrorism. That is why we are cracking down on illegal financial systems that could be used to supply money to terrorists.” Allan J. Doody, Special Agent in Charge for ICE in Washington, D.C., stated that “illegal money transmittal businesses and ‘hawalas’ pose serious vulnerability because they provide criminals with a back-door mechanism to move dirty money around the globe undetected. What is particularly troubling is that Mr. Bariek testified before the U.S. Senate about the dangers posed by illegal hawalas while he was operating one at the same time.” “The use of unlicensed money transfer businesses or ‘hawalas’ is an emerging area of law enforcement because of potential use by money launderers and terrorists,” said Charles Pine, Special Agent in Charge, IRS-Criminal Investigations Division, Alexandria Field Office.

Nicholas C. Kyrus, Deputy Commissioner of Financial Institutions at the Virginia SCC, stated that this case exemplifies the close cooperation of State and Federal agencies in cracking down on unlicensed money transmitters. Since Virginia-licensed money transmitters and check casher registrants are listed on the Commission’s/Bureau’s website, a simple check on the Bureau’s website at www.scc.virginia.gov/division/banking/index.htm could prevent potential problems as far as compliance with the BSA is concerned. As part of their due diligence, Kyrus said, Virginia bankers may call his office at (804) 371-9690 and seek information about money transmitters and check cashers.

ICE was established in March 2003 as the largest investigative arm of the U.S. Department of Homeland Security. ICE is comprised of five integrated divisions that form a 21st century law enforcement agency with broad responsibilities for a number of key homeland security priorities.

ANOTHER TRANSMITTER CONVICTED FOR OPERATING WITHOUT A VIRGINIA LICENSE

On October 21, 2005, a Federal jury convicted a Herndon, Virginia man pursuant to the USA PATRIOT Act, which requires money transmitters to obtain the required State license and register with FinCEN — an agency of the U.S. Treasury — before engaging in the money transmission business. Testimony showed that Mohammad Bajwa continued operating a money transmission business in Virginia after the Virginia Bureau of Financial Institutions denied his company’s application for a license in March 2002. The prosecution produced evidence connecting Bajwa to \$6 million he helped people wire to Pakistan and other countries

from Virginia residents. He was also convicted of wire fraud connected to a refinancing application he filed on a mortgage.

Bajwa was ordered to give up his home and \$4 million. He could face a maximum penalty of five years in prison for each charge when he is sentenced on November 29.

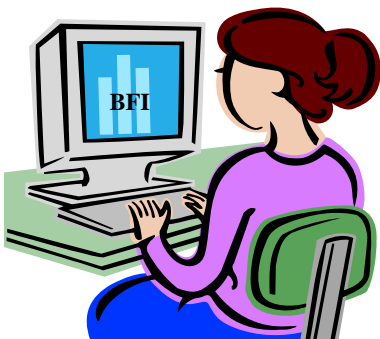
Prosecutors say Bajwa collected money from people in Virginia and then wired it to overseas banks. His brother in Pakistan then collected the money and distributed it to recipients.

In April, Bajwa was convicted of immigration fraud and was later sentenced to two years in prison.

IMPORTANT TELEPHONE NUMBERS

- Banks and Savings Institutions (804) 371-9704
- Consumer Finance and Mortgage Companies (804) 371-9701
- Licensing (applications, name changes, annual reports) (804) 371-9690
- Consumer Complaints (804) 371-9705
- Corporate Information (SCC Clerk's Office) (804) 371-9733
- Bureau's FAX number (804) 371-9416
- TDD (804) 371-9206

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Check out our Web site at
[www.scc.virginia.gov/division/
banking.](http://www.scc.virginia.gov/division/banking)
